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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-second session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding Observations of the Committee on the Rights of the Child

NETHERLANDS

1. The Committee considered the initial report of the Netherlands (CRC/C/51/Add.1) at its 578th to 580th meetings (see CRC/C/SR.578-580), held on 4 and 5 October 1999 and adopted[1] the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation for the clear and comprehensive nature of the report, which follows the Committee's guidelines. The report, however, focuses heavily on legislation, programmes and policy at the expense of information on the actual enjoyment of the rights of the child. While regretting their late submission, the Committee takes note of the detailed and informative written answers to the list of issues (CRC/C/Q/NETH.1) and some additional information provided to it during the course of the meetings, which enabled the Committee to assess the situation of the rights of the child in the State party. The Committee regrets the limitations placed on the State party's delegation by the unavailability of appropriate information to answer some of the questions during the discussion, which imposed constraints on a productive dialogue.

[1] At the 586th meeting, held on 8 October 1999.

B Positive aspects

3. The Committee welcomes the commitment and efforts of the State party in achieving a commendable degree of enjoyment by children in the State party of their rights through the establishment of infrastructure, comprehensive policies, legislation and administrative and other measures.

4. Moreover, the Committee commends the State party for its continued commitment to the rights of the child in its development assistance programmes and notes with satisfaction that the State party has exceeded the United Nations target of 0.7 per cent of GDP for development assistance.

5. The Committee commends the State party's efforts to combat the phenomenon of child-sex tourism.

6. The Committee notes with satisfaction the State party's ratification of the Hague Convention of 1980, on the Civil Aspects of International Child Abduction, and the Hague Convention of 1993 on the Protection of Children and Co-operation in Respect of Intercountry Adoption.

C. Principal subjects of concern and the Committee's recommendations

C.1 General measures of implementation

7. The Committee is encouraged that the State party has indicated its willingness to reconsider its reservation to article 10 of the International Covenant on Civil and Political Rights. However, it notes with concern the reservations to articles 26, 37 and 40 of the Convention made by the State party. **In the light of the Vienna Declaration and Programme of Action (1993), the Committee encourages the State party to consider withdrawing all of its reservations.**

8. The Committee notes that cooperation with and the involvement of non-governmental organizations in the implementation of the Convention, including the preparation of the report, remain limited. **The Committee encourages the State party to consider a more systematic approach to involve NGOs, and civil society in general, throughout all stages of the implementation of the Convention.**

9. While acknowledging the initial efforts made to disseminate the Convention, the Committee regrets that the State party's report was not made widely available, or disseminated. Furthermore, the Committee is concerned that the State party is not undertaking information and awareness-raising activities on an ongoing basis. **In this regard, the Committee recommends that the State party develop an ongoing programme for the dissemination of information regarding the implementation of the Convention, in order to maintain a high level of awareness of the importance of the Convention among children and parents, civil society and all sectors and levels of government. Moreover, the Committee recommends that the State party develop systematic and ongoing training programmes on the provisions of the Convention for all professional groups working for and with children, such as judges,**

lawyers, law enforcement officials, civil servants, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers.

10. The Committee expresses its concern that measures and policies developed by the State party for implementation at the provincial and municipal levels are not sufficiently child rights-based. The Committee is concerned that compartmentalization of policy sectors often leads to fragmentation and overlap in respect of the implementation of the Convention. **In this regard, the Committee recommends that the State party adopt a comprehensive national plan of action to implement the Convention, and give increased attention to intersectoral coordination and cooperation at and between the central, provincial and municipal levels of government.**

11. While noting the positive aspects of decentralization in the implementation of child policies, the Committee is nevertheless concerned that it may contribute to bottlenecks in the implementation of provisions of the Convention. **The State party is encouraged to provide support to local authorities for implementation of the principles and provisions of the Convention.**

12. While acknowledging the role played by the Council for Child Protection and the "children's law polyclinics" in offering legal advice and information to children and in promoting their interests, the Committee remains concerned about the lack of an independent mechanism to monitor the implementation of the Convention. **The Committee recommends that consideration be given to the establishment of a fully independent ombudsman for children to monitor and assess the full implementation of the Convention.**

13. The Committee is concerned about the lack of information regarding the implementation of article 4 of the Convention and the use to the "maximum extent" of available resources to implement the economic, social and cultural rights of children. **The Committee urges the State party to develop ways to establish a systematic assessment of the impact of budgetary allocations and macroeconomic policies on the implementation of children's rights and to collect and disseminate information in this regard.**

C.2 General principles

14. The Committee welcomes the generally good levels of participation of children, particularly in secondary schools and at the local level. **The Committee encourages the State party to continue promoting such participation, in particular in decision-making processes in all matters affecting children themselves. In this regard, the Committee recommends that the State party develop training programmes for local officials and other decision-makers to enable them to take adequately into consideration the opinions of children presented to them, with particular emphasis on involving and reaching vulnerable groups, such as children of ethnic minorities. The Committee also recommends that more attention be given to the promotion of child participation in primary schools.**

C.3 Family environment and alternative care

15. In relation to article 11 of the Convention, the Committee notes that the Netherlands is a party to the Hague Convention of 1993, on the Protection of Children and Cooperation in Respect of Intercountry Adoption and to the Hague Convention of 1980 on the Civil Aspects of International Child Abduction. **The Committee encourages the State party to consider concluding bilateral agreements with States that are not parties to the two above-mentioned conventions.**

16. The Committee is concerned about the long waiting periods for placement in residential care. **The Committee encourages the State party to increase the number of places available in residential facilities, while giving increased attention to alternatives to placement in residential facilities, in particular foster family care services, bearing in mind the principles and provisions of the Convention, especially the best interests of the child.**

17. The Committee welcomes the recent efforts to establish a network of child abuse reporting and counselling centres and the plans to strengthen child abuse monitoring and reporting systems. However, the Committee remains concerned about the growth in reported cases of child abuse and about the level of protection available to children. **The Committee urges the State party to give increased priority to the prompt implementation and support of monitoring and reporting systems based on the position paper of the Ministries of Justice, and Health, Welfare and Sport concerning the prevention of child abuse and the protection and rehabilitation offered to victims of child abuse. Furthermore, the Committee recommends that the State party, in line with developments in other European countries, take legislative measures to prohibit the use of all forms of mental and physical violence against children, including corporal punishment, within the family.**

C.4 Basic health and welfare

18. The Committee welcomes the efforts made and understands the difficulties faced by the State party in protecting girls within its jurisdiction from female genital mutilation carried out outside its territory. **Nevertheless, the Committee urges the State party to undertake strong and effectively targeted information campaigns to combat this phenomenon, and to consider adopting legislation with extraterritorial reach which could improve the protection of children within its jurisdiction from such harmful traditional practices.**

19. The Committee remains concerned that the right of access to medical advice and treatment without parental consent, such as testing for HIV/AIDS, may be compromised in instances where the bill for such services is sent to the parents, violating the confidentiality of the doctor-child relationship. **The Committee recommends that the State party take adequate measures to ensure that medical advice and treatment remain confidential for children of appropriate age and maturity, in accordance with articles 12 and 16 of the Convention.**

20. The Committee is concerned at the low rates of breastfeeding. **The Committee encourages the State party to undertake breastfeeding promotion campaigns, stressing its advantages and the negative impact of substitutes, while providing counselling to HIV/AIDS-infected mothers about the risk of transmission of HIV/AIDS through breastfeeding.**

C.5 Education, leisure and cultural activities

21. The Committee is concerned that not enough attention has been given to the inclusion of human rights education in the school curricula, particularly at the primary level. **The Committee urges the State party to consider introducing human rights issues into the school curricula at earlier ages and to ensure that the Convention on the Rights of the Child and its provisions are adequately covered in the existing curricula for older children and in new curricula for primary school pupils.**

22. The Committee welcomes the efforts being made to address the problem of bullying in schools, including the "Safe schools" campaign. **The Committee encourages the State party to continue its efforts to prevent bullying in schools, to collect information on the extent of this phenomenon and, in particular, to strengthen structures to enable children to participate in adequately addressing and resolving this problem.**

C.6 Special protection measures

23. While noting the efforts to deal with unaccompanied asylum-seeking minors, the Committee is concerned that they may need to receive increased attention. **The Committee recommends that the State party strengthen measures so as to provide immediate counselling and prompt and full access to education and other services for refugee and asylum-seeking children. Furthermore, the Committee recommends that the State party take effective measures for the integration of these children into its society.**

24. The Committee takes note of the efforts made to raise steadily the age of recruitment into the armed forces and involvement in hostilities. It also notes the declaration stating the intention of the State party to apply a higher standard than that required by the Convention, and its commitment to international efforts in this regard. **Nevertheless, the Committee urges the State party to reconsider its present recruitment policies, with a view to setting the age of recruitment into the armed forces at 18 years.**

25. The Committee welcomes the information provided on the improvements that the Youth Custodial Institutions Act will introduce to deal, as quickly as possible, with complaints regarding ill-treatment. **Nonetheless, the Committee recommends that due attention be given to ensuring that efforts to settle such complaints promptly through a mediation procedure will not result in less than thorough investigations.**

26. The Committee is concerned about the delays faced by juvenile offenders in need of psychological and psychiatric treatment. **The Committee recommends that the State party increase the availability of places in institutions in order to provide these juvenile offenders with timely and appropriate treatment.**

27. On the protection of children from sexual abuse, the Committee welcomes the attention given by the State party to the impact of the "complaint requirement" for prosecuting offences committed against children between 12 and 16 years. However, the Committee remains concerned that the balance sought between protecting children against sexual abuse and protecting their sexual freedom may still unduly limit protection from abuse. The Committee also remains concerned that efforts to increase the protection of children against exploitation in the production of pornography have not made further progress. **The Committee encourages the State party to continue reviewing its legislation and policies so as to modify the "complaint requirement" for prosecution of sexual offences committed against children over 12. Furthermore, the Committee encourages the State party to change its legislation with a view to improving the protection of all children from inducement to participate in the production of pornographic shows or materials, and from other forms of commercial sexual exploitation. While welcoming the introduction of such legislation, the Committee also encourages the State party to consider reviewing the "dual criminality" requirement in legislation establishing extraterritorial jurisdiction for cases of sexual abuse of children.**

28. The Committee notes the concern of the State party with respect to the problem of the sexual exploitation of children, often victims of trafficking, including the disappearance of unaccompanied minor asylum-seekers from reception centres. The Committee, however, remains concerned that no specific policies and measures appear to be contemplated at this point to address the problem as a matter of urgency. **The Committee urges the State party to give prompt and serious attention to the need to ensure that children are not used as prostitutes and that asylum-seeking procedures, while fully respecting the rights of unaccompanied minor asylum-seekers, effectively protect children from involvement in trafficking for sexual exploitation. Further, the Committee recommends that the State party adopt a comprehensive national plan of action to prevent and combat commercial sexual exploitation of children, taking into account the recommendations formulated in the Agenda for Action adopted at the 1996 Stockholm World Congress Against Commercial Sexual Exploitation of Children.**

29. The Committee notes the monitoring of the educational performance of children from ethnic minorities, but it remains concerned that the results continue to show noticeable disparities. **The Committee urges the State party to review its efforts closely and to consider the possibility of providing further assistance to children at risk and the need to provide assistance to families from ethnic minorities with socioeconomic problems, thus addressing the root causes of poor educational performance.**

30. The Committee is seriously concerned about the implications of the reservation entered by the State party on the applicability of adult criminal law to children over 16 years of age. The Committee is also seriously concerned at information provided which indicates that children aged 12 to 15 are also sometimes tried under adult criminal law. **The Committee urges the State party to ensure that under the existing law no child under the age of 16 at the time of the commission of a crime is tried under adult criminal law, and to review the reservation mentioned above with a view to withdrawing it. The Committee further recommends that the State party takes legislative steps to ensure that a life sentence cannot be imposed on children who are tried under adult criminal law.**

31. **Finally, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public, along with the summary records of the relevant meetings and concluding observations adopted by the Committee. Such wide distribution should generate debate and awareness of the Convention and the state of its implementation, particularly within the Government, the relevant ministries, the Parliament and non-governmental organizations.**